

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JANE BOE, JANE COE, JOHN COE, JOHN FOE, JANE
GOE, JANE LOE, JANE JOE, CHILDREN HEALTH
DEFENSE, JANE DOE,

Plaintiffs,

-against-

ELIZABETH RAUSCH-PHUNG, CHERYL PEDISICH,
NYS DEPARTMENT OF HEALTH, THREE VILLAGE
CENTRAL SCHOOL DISTRICT, CORINNE KEANE,
CHRIS PETTOGRASSO, LANSING CENTRAL
SCHOOL DISTRICT, CHRISTINE REBERA, LORRI
WHITEMAN, PENFIELD CENTRAL SCHOOL
DISTRICT, THOMAS PUTNAM, SOUTH
HUNTINGTON SCHOOL DISTRICT, DAVID P
BENNARDO, DAVID MIGLIORINO, ITHACA CITY
SCHOOL DISTRICT, LUVELLE BROWN, SUSAN
ESCHBACH, SHENENDEHOWA CENTRAL SCHOOL
DISTRICT, L. OLIVER ROBINSON, SEAN GNAT,
ANDREW HILLS, COXSACKIE-ATHENS CENTRAL
SCHOOL DISTRICT, RANDALL SQUIER, FREYA
MERCER, ALBANY CITY SCHOOL DISTRICT,
KAWEEDA G. ADAMS, MICHAEL PAOLINO,
HOWARD A. ZUCKER,

Defendants.

DECLARATION

1:20-CV-0840

BKS/CFH

Michael G. McCartin, an attorney admitted to practice in the State of New York, affirms
under penalty of perjury:

1. I am an Assistant Attorney General in the Office of New York State Attorney
General Letitia James, attorney for Defendants New York State Department of Public Health,
Commissioner Howard Zucker, and Elizabeth Rausch-Phung (hereafter, “the State Defendants”).

2. I am familiar with the facts and circumstances related to this action.

3. I make this declaration in support of the Defendants' motion to dismiss.

4. Attached hereto as **Exhibit 1** is a true and accurate copy of New York State Senate Bill Sponsor Memo S2994A.

5. Attached hereto as **Exhibit 2** is a true and accurate copy of the New York State Register dated September 4, 2019.

6. Attached hereto as **Exhibit 3** is a true and accurate copy of the New York State Register dated December 31, 2019.

7. Attached hereto as **Exhibit 4** is a true and accurate copy of the Emergency Regulations dated August 16, 2019.

8. Attached hereto as **Exhibit 5** is a true and accurate copy of the Center for Disease Control's Best Practices Guidance of the Advisory Committee on Immunization Practices (ACIP).

9. Attached hereto as **Exhibit 6** is a true and accurate copy of the final regulations filed on or about December 31, 2019.

10. Attached hereto as **Exhibit 7** is a true and accurate copy of the ISDA Clinical Practice Guidelines.

11. Attached hereto as **Exhibit 8** is a true and accurate copy of a screenshot of the American Academy of Pediatrics' webpage concerning vaccination recommendations, which can be found at <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/immunizations/pages/vaccine-preventable-diseases-and-policy.aspx>.

12. Attached hereto as **Exhibit 9** is a true and accurate copy of a screenshot of the American Academy of Family Physicians' webpage concerning immunization recommendations, found at <https://www.aafp.org/patient-care/public-health/immunizations.html>.

WHEREFORE, I respectfully request that the Court grant the Defendants' motion to dismiss.

Dated: Albany, New York
August 20, 2020

s/ Michael McCartin

Michael G. McCartin
Bar Roll No. 511158